

IV. Remarks.

The Examiner entered the following rejection.

1. Claims 8 and 9 are rejected under 35 USC 102(b) as being anticipated by Tomiyama et al. (5714024).

Applicant respectfully disagrees with the Examiner. Tomiyama teaches a marking material (10) having a substrate material (14) defined by a first rubber compound. Marking material (10) further comprises a mark (16) applied to substrate layer (14), col. 5, lines 51-57. Put another way, Tomiyama teaches a label (10) that comprises a mark (16) applied to a substrate layer (14).

Label (10) is applied to the belt sleeve (38) during fabrication, col. 6, line 54 to col. 7, line 7, namely, substrate material (14) is applied to the belt sleeve as the sleeve is built up on a drum, see Fig. 2. Layer (14) is applied to the rubber belt sleeve (38). Mark (16) is applied to layer (14) prior to layer (14) being applied to the belt sleeve (38).

Mark (16) is taught as the component that is optically distinguishable from layer (14), col. 5, lines 55-57. Layer (14) does not comprise a portion of the elastomeric belt body sleeve (38). There is no teaching in Tomiyama that would indicate layer (14) is optically distinguishable from the sleeve (38).

Tomiyama does not teach a thermoplastic layer applied to the elastomeric belt body, the thermoplastic layer optically distinguishable from the elastomeric body. Therefore, the reference does not teach the invention as claimed.

2. Claims 8, 9 and 19 are rejected under 35 USC 102(b) as being anticipated by WO 00/58191 to Lofgren et al.

As to claim 8 and claim 19, Lofgren teaches an electrically conductive article having a thermoplastic layer (8), an article body, and a bonding layer (9) between the article body and the layer (8). Layer (8) is described as ultra high molecular weight polyethylene (UHMWPE). Layer (9) is described as high density polyethylene HDPE. Both layers (8) and (9) are polyethylene. Layer (9) is chemically similar to layer (8), page 4, lines 1-3. Layer (9) bonds layer (8) to fabric layer (7) because HDPE has the ability to "soak" into fabric (7), page 4, lines 1-6.

There is no teaching in Lofgren that layer (8) is optically distinguishable from layer (9). All that Lofgren reasonably teaches is two layers comprising substantially the same material that are bonded together. There is no teaching nor expectation that layer (8) is optically distinguishable from layer (9). Therefore, Lofgren does not teach a thermoplastic layer applied to the elastomeric belt body, the thermoplastic layer optically distinguishable from the elastomeric body as claimed.

Claim 9 depends from claim 8.

3. Claims 8, 10, 11, 19-21, 24 and 26 are rejected under 35 USC 102(b) as being anticipated by Bierbaum (5244080).

As to claims 8 and 19, Bierbaum teaches a belt (1) of a belt conveyor having at least one layer (3) provided with windows (5) which extend all the way through layer (3) and have outlines corresponding to those of letters, numerals and/or other symbols. The windows receive inserts or indicia (5A) which preferably fill the respective windows and are welded, glued or otherwise affixed to the belt. At least one characteristic (for example, color) of each insert is selected in such a way that the installed insert or inserts can be readily discerned by an eye at one or both sides of the layer. The layer (3) which is provided with the window or windows can have one or more strata (thinner layers), such as an outer stratum of plastic material, a reinforcing intermediate layer or stratum of textile material or the like, and a layer or stratum which can constitute a substrate. Layer (3) comprises flexible plastic material, col. 3, lines 44-47. A substrate or layer (2) is taught which comprises rubber or similar material, col. 3, lines 44-47.

Bierbaum does not teach a first thermoplastic layer applied to an elastomeric body, the thermoplastic layer being optically distinguishable from the elastomeric body. Instead, Bierbaum teaches a layer (3) which is provided with windows (5). Inserts (5A) are affixed to layer (3), col. 3, lines 55-63. It is the inserts (5A) which are visually distinguishable from the surrounding layer (3), col. 4, lines 39-61. The differentiator is color. Bierbaum does not teach that layer (3) is optically distinguishable from layer (2). There is no teaching that layer (3) nor insert (5A) is optically distinguishable from body (2) since body (2) is covered by layer (3) and inserts (5A), see Fig. 1. Therefore claims 8 and 19 are not anticipated.

Claims 10 and 11 depend from claim 8. Claims 20, 21, 24, 26 depend from claim 19.

4. Claims 12, 13, 16, 18, 22, 23 and 25 are rejected under 35 USC 103(a) as being unpatentable over Bierbaum in view of WO 00/58191 to Lofgren et al.

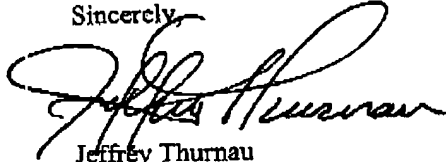
Claims 12, 13, 16, 18 depend from claim 8. Claims 22, 23 and 25 depend from claim 19.

Applicant requests that the rejections be withdrawn for all claims.

V. Fees.

Any fees payable for this amendment and request for extension of time may be deducted from deposit account 07-0475 in the name of The Gates Corporation. Thank you for your attention to this case. If any questions arise, please call at the number below.

Sincerely,



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Date: May 10, 2005